

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

FILED

2009 MAY -4 P 2: 22

U.S. DISTRICT COURT  
EASTERN DIST. TENN.

BY \_\_\_\_\_ DEPT. CLERK

KEVIN FADDIS,

Plaintiff,

VS.

WESTFIELD INSURANCE GROUP,  
d/b/a WESTFIELD INSURANCE,  
(Correct Defendant: Westfield Insurance  
Company)

Defendant.

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Case No. 3:09-CV-193  
Jury Demand

Jordan/Shirley

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NOTICE OF REMOVAL

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The above-named Defendant, Westfield Insurance Group, d/b/a Westfield Insurance (correct name is Westfield Insurance Company), hereinafter "Westfield," pursuant to 28 U.S.C. § 1441, *et seq.*, for its Notice of Removal of the action instituted by the above-named Plaintiff against it as Defendant, shows unto the Court:

1. Plaintiff is a citizen and resident of Knox County, Tennessee, and so pleads in his Complaint.
2. Defendant Westfield is, and at all time pertinent to this cause of action was, a foreign corporation doing business in the State of Tennessee. Westfield is incorporated under the laws of the State of Ohio with its corporate headquarters and principal place of business located at One Park Circle,

P. O. Box 5001, Westfield Center, Ohio 44251. Westfield was not on September 3, 2008, or any time before or after said date, up to and including the date this action was filed in the Circuit Court of Knox County, Knoxville, Tennessee, on March 30, 2009, or on the date of the filing of this Notice of Removal, incorporated under the corporate statutes or other applicable law of the State of Tennessee, and has not at any time prior to or subsequent to March 30, 2009, up to and including the date of the filing of this Notice of Removal, had its principal place of business in Tennessee, or at any place other than Westfield Center, Ohio.

3. The citizenship of the respective parties was the same as herein alleged at the time of the commencement of this action in the Circuit Court of Knox County, Knoxville, Tennessee, and on the date of the filing of this Notice of Removal.

4. On March 30, 2009, Plaintiff instituted an action against Defendant in the Circuit Court of Knox County, at Knoxville, Tennessee, by filing in said Court a Complaint and Summons for the said Defendant. Plaintiff is seeking the Court to declare the rights of the parties under a homeowners' insurance policy pertaining to certain residential insurance coverages, more specifically, as to damages and losses sought as the result of alleged major internal and external structural damages to Plaintiff's house at 1031 Josepi Drive, Knoxville, Tennessee 37918, which occurred "at a rapid and significant rate," allegedly occurring while this policy was in force. Plaintiff seeks from Defendant proceeds of the policy for damages to the insured house plus additional losses and for coverage under the policy up to the policy limit of \$117,500. Plaintiff also seeks compensatory and punitive damages in his *ad damnum* allegations, and while he does not specify a sum certain in the Complaint, the amount in controversy is the policy limit which is \$117,500; thus, the amount in controversy exceeds \$75,000 exclusive of costs and interest.

5. The Summons and Complaint issuing from the Clerk's Office of the Circuit Court for Knox County at Knoxville, Tennessee were served upon the Defendant on April 3, 2009.

6. Less than thirty (30) days have transpired since notice was received by Tennessee's Department of Commerce and Insurance on April 3, 2009, up to and including the date of the filing of this Notice of Removal.

7. Defendant files with this Notice of Removal, marked for identification as "Collective Exhibit 1", an exact and complete copy of the letter from Brenda C. Meade, Designated Agent, Service of Process, Department of Commerce and Insurance, and the Summons and the Complaint.

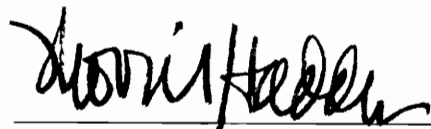
8. The amount in controversy in said action herein referred to exceeds to sum of Seventy-five Thousand Dollars (\$75,000), exclusive of interest and costs.

**WHEREFORE**, Defendant prays that this Court accept this Notice of Removal and proceed with this action in accordance with the law.

**Respectfully submitted,**

**WESTFIELD INSURANCE GROUP, d/b/a  
WESTFIELD INSURANCE (Correct Name:  
WESTFIELD INSURANCE COMPANY)**

By:



S. Morris Hadden (BPR #000747)

Counsel for Defendant

**HUNTER, SMITH & DAVIS, LLP**

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## CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2009, a copy of the foregoing **Notice of Removal** was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U. S. Mail. Parties may access this filing through the Court's electronic filing system.

Arthur F. Knight, III, Esq.  
**BECKER, FLEISHMAN & KNIGHT, P.C.**  
P. O. Box 1710  
Knoxville, TN 37901



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